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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,143	02/27/2004	Jeffrey A. Tilton	25363A	9278
22889	7590	11/29/2006		
OWENS CORNING 2790 COLUMBUS ROAD GRANVILLE, OH 43023				
			EXAMINER PIZIALI, ANDREW T	
			ART UNIT	PAPER NUMBER

1771

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/789,143

Applicant(s)

TILTON ET AL.

Examiner

Andrew T. Piziali

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-24.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments are not persuasive.

Although not listed in the actual rejection, the examiner previously noted in the 'Response to Arguments' section that the applicant has not shown, or attempted to show, that all wet processing steps result in a mat that is patentably distinct from a mat that is not wet processed. In response, the applicant asserts that this statement is "additional support for the rejections" and that it is improper to mention applicant's omission. The examiner respectfully disagrees. The comment was made in response to the applicant's previous assertion that the nonwoven layers disclosed by Welchel are not wet processed mats. The examiner continues to note that the applicant has failed to show, or attempt to show, that all wet processing steps result in a mat that is patentably distinct from a mat that is not wet processed.

The applicant asserts that Welchel fails to disclose the claimed invention. The examiner contends that the claims are rejected by a combination of references rather than by Welchel alone.

The applicant asserts that Oleszczuk and Lickfield fail to disclose the claimed invention. The examiner contends that the claims are rejected by a combination of references rather than by Oleszczuk or Lickfield alone.

The applicant asserts that there is no teaching or suggestion to provide directly bonded layers of wet processed mat with different fiber formulations. The examiner respectfully disagrees. Oleszczuk and Lickfield each disclose that additional "supporting" (wet processed bicomponent staple fiber mat) layers may be added to the composite article (see column 8, lines 64-67 and the paragraph bridging columns 12 and 13 of Oleszczuk and column 5, lines 1-4 and column 10, lines 10-23 of Lickfield), but the references do not appear to specifically mention at least one adjacent additional layer of different fiber formulation. Welchel discloses that it is known in the nonwoven laminate fabric art (column 1, lines 11-20) to directly bond an additional thermoplastic bicomponent staple nonwoven layer (105) with a different fiber formulation (smaller denier) to an adjacent thermoplastic bicomponent staple nonwoven layer (102), so that the surface is more aesthetically pleasing to the touch and/or more comfortable to the user (see entire document including Figure 2, column 2, lines 17-18, column 5, lines 35-65, and column 7, lines 4-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to directly bond an additional wet processed bicomponent staple fiber mat supporting layer, with a different fiber formulation (smaller denier), to the first or second layer of wet processed mat (14 or 16), because the additional wet processed bicomponent staple fiber mat supporting layer would allow the surface be more aesthetically pleasing to the touch and more comfortable to the user.

The applicant asserts that there is no evidence that teaches or suggests that directly bonding an additional wet processed bicomponent staple fiber mat supporting layer, with a different fiber formulation (smaller denier), to the first or second layer of wet processed mat (14 or 16), would allow the surface be more aesthetically pleasing to the touch and more comfortable to the user. The examiner respectfully disagrees. See column 5, lines 61-65 of Welchel.

The applicant asserts that the "second top sheet" (105) of Welchel is not wet processed or directly bonded to another wet processed layer. The examiner contends that it is not necessary to rely on Welchel to teach the wet processing of the layers because Oleszczuk and Lickfield already disclose that additional "supporting" (wet processed mat) layers may be added to the composite article (see column 8, lines 64-67 and the paragraph bridging columns 12 and 13 of Oleszczuk and column 5, lines 1-4 and column 10, lines 10-23 of Lickfield). It is noted that Oleszczuk and Lickfield each disclose that the layers may be thermally bonded (see column 8, lines 55-63 of Oleszczuk and column 4, lines 59-67 of Lickfield) and that Welchel also discloses that the thermoplastic bicomponent staple fiber nonwoven layers (105 and 102) are to be directly bonded (45-48).

977 11/27/06

ANDREW PIZALI
PRIMARY EXAMINER